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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,260	07/11/2003	Herbert Meyerle	S118.12-0001	3921

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EXAMINER

RICHARDSON, JOHN A

ART UNIT PAPER NUMBER

3641

DATE MAILED: 04/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/618,260

Applicant(s)

MEYERLE ET AL.

Examiner

John Richardson

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5, 9-15, 17-26, 29-48 is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-8 and 16 is/are rejected.
- 7) ☒ Claim(s) 27 and 28 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12-08-2003
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Non Final Rejection

1). The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2). The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3). Claims 27, 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 27 recites the limitation "**the expanding thread**" in line 8. There is insufficient antecedent basis for this limitation in the claim.

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4). Claims 1, 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Hepp (U.S. 5,048,211).

The reference discloses a firearm safety lock comprising a lockable portion (item 24) insertable into the barrel (item 14), a pull rod actuation transmission means (item 20), a control unit (item 50) capable of authenticating by the user by means of a key (item 56) and insertable within the said barrel, relating to claims 16-18, 26, a clamping locking means is disclosed (item 34) within the said barrel,

5). Claims 2, 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Serrao (U.S. 6,584,718).

The reference discloses a firearm locking system (item 10) comprising a locking portion insertable (for example, items 12, 44) into a firearm barrel (item 140) and is optionally lockable and / or unlockable by means of tapered clamps (item 24) as disclosed in open (area 8) and locked (area 9) positions in Figures 6, 7 respectively, a transmission means is disclosed for operating the said locking system as shown for example in Figure 2, a control unit / lock housing (item 86) capable of authentication using a key detail (item 126), an activation means by operation of the said control unit places the locking device in an open / locked configuration (Column 6, lines 15+), relating to claim 6, the reference discloses a deactivation of the said activation mechanism (Column 7, lines 40-58).

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6). Claims 3, 7, 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Lindley et al (GB2234047A).

The reference discloses a weapon locking device (item 1) that is inherently capable of functioning and operating in the manner cited in the applicant's claims, comprising a locking portion / using (item 5) insertable into a firearm cartridge chamber (page 3, 1st full paragraph), and is detachable from the said firearm barrel (page 3, 2nd paragraph), a means of severance protection mechanism in accordance with the limitations included in claim 48, is provided by an explosive charge feature (item 23) that is connected to the said locking portion and comprises an inclined / tapering region elements (items 17, 21) with an axial force operating through the action of an explosive charge on a piston detail (item 22), and the said axial force results in a clamping action through Belleville washers (items 27), a control unit that authenticates the user by means of a keying system that locks / unlocks the firearm (item 3), relating to claim 7, the said severance protection mechanism consists of a plurality of plate-shaped and inclined elements with graded expansion properties as shown in Figure 1, and described for example on page 5, 1st full paragraph, relating to claim 8, the reference discloses a range of materials for the said body item 6 as described for example on page 3, last paragraph, and page 4 top paragraph, resulting varying material expansion rates under the action of item 23. As to limitations which are considered to be inherent in a reference, note the case law In re Ludke, 169 USPQ 563, In re Swinehart, 169 USPQ 226, In re Fitzgerald, 205 USPQ 594, In re Best et al, 195 USPQ 430, and In re Brown, 173 USPQ 685,688.

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It is noted that a claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from prior art apparatus" if the prior art teaches all the structural limitations of the claim. In re Masham, 2 USPQ2d 1647.

Claims directed to apparatus must be distinguished from prior art in terms of structure rather than functions. In re Danly, 120 USPQ 528, 531.

Apparatus claims cover what a device *is*, not what a device *does*. Hewlett-Packard Co. v. Bausch & Lomb Inc., 15 USPQ2d 1525, 1528.

As set forth in MPEP§ 2115, a recitation in a claim to the material or article worked upon, does not serve to limit an apparatus claim.

7). Claims 27, 28 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

8). Claims 5, 9-15, 17-26, 29-48 are allowed.

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9). The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

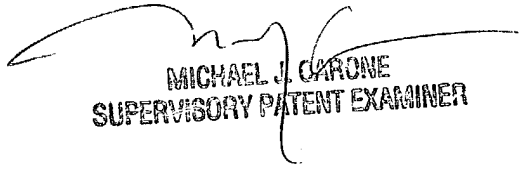
10). Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Richardson whose telephone number is (703) 305 0764. The examiner can normally be reached on Monday to Thursday from 7.00 AM to 4.30 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone, can be reached on (703) 306 4198. The fax phone number for the organization where this application or proceeding is assigned is (703) 305 7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308 1113.

John Richardson, PE,

April 16 2004.


MICHAEL J. CARONE
SUPERVISORY PATENT EXAMINER